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March 5, 1997

Chairman Reed Hundt
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20544

VIA FAX

Dear Chairman Hundt:

As Chairman of the Western Governors' Association (WGA) and Lead Governor for rural health initiatives, I would like to make you aware of certain concerns of our membership regarding the November 1996 Recommended Decision of the Federal-State Joint Board on Universal Service. As you know, the WGA was represented on the Telecommunications and Healthcare Advisory Committee to the Joint Board and I wrote to you regarding the Advisory Committee's recommendations on November 8, 1996.

The recommendation of the Joint Board raises two additional issues of concern for Western states: 1) the nature of the administration of universal service funds; and, 2) the Joint Board's definition of "health care provider," as that term is used in §254(h)(1) of the Telecommunications Act of 1996. Simply stated, we believe that the Joint Board's proposal unnecessarily denies states the option of self-administering universal service funds relating to schools, libraries, and health care providers in accord with the Act. This state administration should not disrupt the traditional principal of distribution of universal service funds that focuses on the need of the state for these resources as opposed to the amount that state contributed. In addition, we believe the Joint Board has mistakenly interpreted the term "health care provider" when it limits the providers that can receive universal service benefits under the Act to only those located in rural areas.

As to the administration of universal service funds relating to schools, libraries, and health care providers, the Joint Board proposes that those funds ought to be managed and distributed by a national entity. This centralized procedure was used prior to passage of the Act. Yet this is a model that both the federal government and the states have decreed does not encourage the requisite flexibility and diversity in the administration of large government programs such as universal service.

For example, there would clearly be an increase in administrative efficiency if schools, libraries, and health care providers, could work with a local state commission as opposed to a national universal service entity. Local public service institutions do not have the resources necessary to

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monitor national funding decisions and FCC rulings. Their resources do not permit them to protest eligibility and payment decisions. They would be much better served by a state universal service institution that better understood the local market and that no doubt would be more responsive to its constituents. This state entity could be particularly important to local constituents from an administrative efficiency perspective if the state establishes its own universal service or other support mechanisms. Accordingly, we urge the FCC to allow the states that choose to do so, the opportunity to self-administer their share of the federal universal support dollars relating to schools, libraries, and health care providers through properly-qualified state entities. For those states that request this role, administrative funding with appropriate oversight and accounting procedures, should be provided by universal service funds without effecting the resources that would otherwise be provided to other states based on traditional universal service distribution principles.

Our second concern is that the Joint Board's recommendation to limit "health care providers" eligible to receive "comparable" rates to those providers physically located in "rural" areas is substantially misguided. The Act carefully defined eligible providers as those who "serve[] persons who reside in rural areas." The Act does not limit the location of the provider. The need for and value of telemedicine comes from its ability to permit healthcare providers, regardless of their location, to "serve" rural healthcare consumers. The Joint Board's recommendation would gut the purpose of the Act in this regard by for instance, limiting the delivery of specialty care to rural areas by urban teaching hospitals. A specialized cardiologist or pathologist working in a major metropolitan area, can only "serve" rural persons by transmitting the necessary data and images between rural and urban settings. This is precisely the need that this part of the Act is supposed to meet.

The Joint Board may have assumed that the urban provider already has access to an "urban" telecommunications rate, and thus should not receive a discount or rate support. Such an assumption ignores the fact that mileage charges are imposed on the caller, and would give the telecommunications carriers the opportunity to deny requests for low-cost service between, for example, Bismarck, where the provider was located, and Hettinger. A connection between Fargo and Beach should be calculated the same way as a connection between Beach and Bottineau. This recommended limitation would also severely impair the ability of consortia consisting of fully-eligible urban and rural members to charge "postage stamp" or equalized rates. Accordingly, the Joint Board's recommendation should be disregarded in preference for the clear intent of the Act.

Thank you for your attention to these important matters.

Sincerely,



Edward T. Schafer

WGA Chairman

Governor of North Dakota



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